

REMARKS

Claims 16, 18-25, 27, 29-36 and 42-54 are pending in the application. Claims 18, 19, 25, 29, 30, 36, 42, 48 and 51-54 have been amended. Reconsideration of this application is respectfully requested.

The Office Action rejects claims 16, 27, 29-36 and 42-54 under 35 U.S.C 103(a) as unpatentable over U.S. Patent No. 6,056,009 to Leymann et al., hereafter Leymann, in view of U.S Patent No. 6,298,307 to Murphy et al., hereafter Murphy, and further in view of U.S. Patent Publication No. US 2003/0014400 A1 to Siegel, hereafter Siegel.

Claims 18, 19, 25, 29, 30, 36, 42, 48 and 51-54 have been amended by changing "process" to "industrial process". Independent claims 42, 48 and 51-54 have been further amended to recite that the "first event is time framed by the first activity". Neither Leymann, Murphy nor Siegel discloses an industrial process or an event that is time framed by an activity as claimed. Therefore, the amendment obviates the rejection.

In addition, the following arguments are presented.

The Office Action at paragraph 4 states that the rejection of claims 16, 27, 29-36 and 42-54, which is set forth in the Office Action dated July 7, 2005, as obvious over the combination of Leymann and Murphy is withdrawn because Applicants' arguments set forth in the Amendment filed on October 6, 2005 are persuasive. However, the Examiner repeats in the present Office Action the same positions taken in the previous Office Action of July 7, 2005 with respect to the combination of Leymann and Murphy in regard to the elements and/or steps of independent claims 42, 48 and 51-54 without addressing Applicants' arguments set forth in the Amendment filed on October 6, 2005. Therefore, Applicants' arguments set forth in the Amendment filed on October 6, 2005 are

incorporated herein with respect to the combination of Leymann and Murphy as articulated in the Office Action.

A brief summary of the contentions of those arguments is as follows:

With respect to independent claims 42, 48 and 51:

1. The combination of Leymann and Murphy lacks “an activity framing program that responds to input data entered by a user to define a data structure” in which “said first event is framed by said first activity”.
2. The combination of Leymann and Murphy lacks “wherein said framing program further responds to a request that identifies said first activity and said first attribute of said first activity by using said data structure to access said data of said process to retrieve event data of said first event”.

With respect to claims 52-54:

1. The combination of Leymann and Murphy lacks the step of “generating an access request that is based on a data structure that comprises a plurality of activities and events of said process, one or more attributes of a first one of said activities, and one or more attributes of a first one of said events, wherein said first event is framed by said first activity”.
2. The combination of Leymann and Murphy lacks the step of “in response to said access request, using said data structure to access said memory to retrieve event data of said first event”.

With respect to claims 42, 48 and 51-54, there is no motivation to combine Leymann and Murphy.

At pages 5 (discussion of claims 42, 48 and 51) and 10 (discussion of claims 52-54) of the Office Action, the Examiner admits that the combination of Leymann and Murphy does "not teach a data structure with a plurality of activities and events". The Examiner contends that Siegel teaches that each event includes "a plurality of activities". However, Leymann teaches to treat an event as an activity. It is not seen how Siegel's event, being a plurality of activities, can be incorporated into Leymann's teaching of treating an event as an activity. Moreover, Siegel does not supply the deficiencies of the combination of Leymann and Murphy that are noted above. Therefore, independent claims 42, 48 and 51-51 are not obvious in view of the combination of Leymann, Murphy and Siegel.

The combination of Leymann, Murphy and Siegel is improper as Siegel is directed to an art that is non-analogous to the art of Leymann. Leymann is directed to a business art of work flow management systems that support the modeling and execution of business processes. In contrast, Siegel is directed to an education art of case study instruction. These two arts are dissimilar and, therefore, non-analogous.

The combination of Leymann, Murphy and Siegel is improper because it lacks motivation. The Office Action suggestion to use Leymann in combination with Murphy and Siegel is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

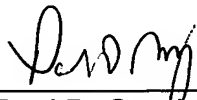
For the reasons set forth above, it is submitted that the rejection of claims 16, 18-25, 27, 29-36 and 42-54 under 35 U.S.C. 103(a) is obviated by the amendment and is erroneous as well and should be withdrawn.

The Office Action cites a number of patents that were not applied in the rejections of the claims. These patents have been reviewed, but are believed to be inapplicable to the claims.

It is respectfully requested for the reasons set forth above that the rejection under 35 U.S.C. 103(a) be withdrawn, that claims 16, 18-25, 27, 29-36 and 42-54 be allowed and that this application be passed to issue.

Respectfully Submitted,

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Paul D. Greeley
Reg. No. 31,019
Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
(203) 327-4500